

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4114 of 1995

to

FIRST APPEAL No 4179 of 1995

Hon'ble MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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SPL. LAND ACQ. OFFICER

Versus

HERIS OF VAGHELA MANKAJI DHANAJI

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Appearance:

MR S.J. DAVE, AGP for appellants.

MR BG PATEL for Respondent.

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CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 13/04/98

COMMON ORAL JUDGEMENT (Per Y.B. Bhatt J.)

1. By consent of learned counsel for the respective parties, these appeals are taken up for final hearing today.

2. These are first appeals filed on behalf of the State of Gujarat under section 54 of the Land Acquisition Act read with section 96, CPC, wherein the appellant challenges the common judgement and awards passed by the Reference Court under section 18 of the said Act.

3. The pertinent facts, in brief, in respect of which there is no controversy, are as under.

4. The lands of original claimants were acquired for the Dharoi Project (Canal Unit No.III) located in village Jorapura, Taluka Danta, District Banaskanta. The relevant notification under section 4 was first issued on 22nd July 1971, and the amended notification under section 4 was issued on 13th April 1973.

5. After going through the prescribed procedure the Special Land Acquisition Officer made his award under section 11 of the said Act, which not being accepted by the original claimants, led to the references under section 18 of the said Act. The Reference Court, after considering all the relevant evidence on record, determined the market value of the acquired lands at the rate of Rs.200/- per Are.

6. There is no controversy on the basic fact that the lands under acquisition, as also the lands acquired for the same project in the adjoining and contiguous villages bear the same fertility, and are qualitatively almost identical. We emphasis this fact inasmuch as there are a number of decisions of this court as also of this Bench, wherein this common factor has been conceded to and acted upon. For this reason we do not propose to discuss the evidence in the present appeals independently and on merits since other decisions rendered by this court would form a more reliable guideline or baseline in view of the comparability of the market value of the different villages under acquisition. We act upon this fact situation also because of the different villages considered by the different decisions of this court which are admittedly situated within a radius of 12 to 15 kilometers of the instant village Jorapura.

7. The first decision referred to is a decision by this Bench in First Appeal No.4721 to 4737 of 1996, decided on 2nd April 1998, pertaining to the village Santoda, wherein the section 4 notification was dated

23rd May 1973, i.e. within a month of the amended notification in the instant case. In the said decision we had discussed in detail several other decisions of this court, and after discussing all the other relevant and material facts, determined the market value of village Santoda at Rs.258/- per Are in respect of irrigated lands.

8. We may also refer with advantage to the acquisition for the same project of lands in village Bhanpur, wherein the date of section 4 notification was dated 3rd September 1971, which was decided by an earlier Bench and the market value was determined at Rs.220/-per Are for irrigated lands and Rs.200/- per Are for non-irrigated lands. The said decision of the High Court was taken to the Supreme Court by the State, but the said appeal failed in the Supreme Court, which confirmed the said market rate determined by the High Court.

9. We may also refer with advantage to a decision of this Bench in First Appeal No.3186/95 to 3390/95, decided on 2nd April 1998, wherein the relevant notification under section 4 of the said Act was dated 12th August 1971. By this decision this Bench had dismissed the appeals filed by the State, while confirming the market value as determined by the Reference Court at Rs.200/- per Are.

10. In the instant case we have chosen to refer only to a few and selected decisions of this court, firstly with a view to avoid unnecessary discussion and secondly to concentrate on those decisions where the date of section 4 notification is relatively close to the relevant date in the instant case. Bearing in mind these factors, we have no hesitation in holding that the Reference Court was amply justified in determining the market value of the acquired lands in village Jorapura at the rate of Rs.200/- per Are for irrigated lands. The common judgement and awards impugned in the present appeals are, therefore, required to be sustained and the appeals are required to be dismissed. The same are accordingly dismissed with no order as to costs.

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